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Response to the National Housing Finance and Investment Corporation Bill 2018 Exposure Draft

Introduction

National Shelter welcomes the opportunity to comment on the exposure draft of the National Housing Finance and Investment Corporation Bill 2018. The following brief comments reiterate a number of points previously raised in submissions on National Housing Finance and Investment Corporation consultation paper. However, in this submission we restrict these comments to those that directly relate to the purpose of the Bill.

Previous submissions have expressed concerns that the combination of disparate functions may undermine the effectiveness of the function most likely to create a structural change in the financing of affordable housing – the bond aggregator. The NSW Federation of Housing Associations in its submission makes the point that this requires an industry led, credit rated, finance company, with independence of action modelled on The Housing Finance Corporation in the UK. Therefore this is the criterion we are using for our comments in relation to the establishment of this entity by the Bill.

Functions

While the purposes for which the NHFIC is to be established under the proposed Act are necessarily broad (3. Objects), the functions referred to in 8, 'Functions of the NHFIC', should adequately capture the main activities. However 8 describes its function as to "make loans, investments and grants". While this is accurate, as far as it goes, it is not clear that this sufficiently captures the

distinctive function of a bond aggregator which is to issue bonds to the institutional market and to aggregate debt from CHPs. By so doing, it will iteratively build create a new investment market for social and affordable housing.

Greater specificity in the Bill relating to this function may be important to secure the continuity of this function. While it is likely to also be captured in the Investment Mandate issued by the Minister, the functions as currently specified would be consistent with an entity that did not act as bond aggregator.

The Board

The main consideration relating to the Board of the NHFIC is that it includes considerable expertise and understanding of the industry whose financing it is facilitating and developing, and the nature of the housing system and the drivers of affordability or unaffordability.

In our earlier submission, National Shelter argued that there should be at least two members of the board with housing sector expertise – one with expertise in the community housing industry and another with broad housing system and affordability expertise. We also suggested that a consumer perspective would be desirable.

However, the Bill proposes [18 (2)] that apart from finance, legal and public policy expertise, there be two members with whose expertise bears most directly on the activities of the National Housing Infrastructure Facility housing – expertise infrastructure planning and financing; and expertise in local government. However, there is only one with expertise in “housing” and this is not specific to the bond aggregator function.¹

This is not only an imbalance with respect to the functions of the NHFIC, but does not ensure that the expertise in ‘housing’ includes expertise in housing affordability or affordable housing or, crucially, any expertise in the community housing industry. It is hard to see how the board could “decide ... the strategies and policies”² “contributing to the development of the scale, efficiency and effectiveness of the community housing sector in Australia”³ without such expertise.

We recommend that the required expertise for board membership include expertise in the community housing industry, and that the ‘housing’ criterion be more fully elaborated.

The Investment Mandate

Shelter would welcome an opportunity to discuss the Investment Mandate when it is released. In the meantime, we make the following preliminary observations:

As described in the Bill and the Explanatory Materials, the Investment Mandate appears to be potentially too prescriptive.

¹ Although it is recognized that the expertise in financing is relevant to all the functions of the NHFI, including the aggregator.

² Functions of the Board 1 (a)

³ Objects

While it should be able to provide board direction on matters of policy, such as what entities will be eligible for financing through the bond aggregator, it should be very cautious about the extent to which it extends to areas such as decision-making criteria for making particular loans. This will evolve as a market for such loans emerges. As far as possible, oversight and prudent control of such an evolving business should be provided by the level of relevant expertise and controls developed by the board.

The Explanatory Material provides a list of matters it is expected the Investment Mandate will include. In at least one instance, this appears to go beyond the appropriate activities for the NHFIC or its capabilities, in suggesting it will specify “the types of support services that the NHFIC may provide to assist in building the capacity and capability of the sector”. The specification of the industry development support will need to be guided by other bodies (such as the regulator or industry bodies); and it may not add value for the NHFIC to be undertaking direct ‘capacity building’ projects. While this appears consistent with Object 3(c) “contributing to the development of the scale, efficiency and effectiveness of the community housing sector in Australia”, we take this object to refer to the effect of the aggregator, rather than a specific ‘capacity building’ activity.

On the other hand, the essential separation of activities (ideally a structural separation) between the aggregator function and the infrastructure funding activity of NHFIC should be identified as matters the Investment Mandate will deal with. However this is not mentioned in either the Bill or the Explanatory Material.

Interaction with other programs

While we recognise that this is not directly relevant to a bill to establish the entity, it is now widely accepted that, apart from refinancing existing loans by CHPs on more efficient terms, the bond aggregator will have very little impact unless it is able to raise debt to complement other financing – in particular, investment by government.

It would provide considerable reassurance to stakeholders if the Objects could be made more explicit on this point. This could be done by amending Object 3 (b) “providing finance, grants or investments that complement, leverage or support Commonwealth, State or Territory activities relating to housing;”. As it stands, this Object refers to any activity relating to housing; and clearly relates to the activities of the National Housing Infrastructure Facility. Amending this to read “...Commonwealth, State or Territory activity relating to *affordable housing, or housing generally.*”

In general, National Shelter feels it would be remiss not to reiterate the view that new Government investment in social and affordable housing is as, if not more, important now that the Bond Aggregator can create a more efficient market for debt to leverage that investment.